

THE HONORABLE JAMES L. ROBART

U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ADAMA JAMMEH and OUMIE SALLAH,
on behalf of themselves and other similarly
situated,

Plaintiffs,

v.

HNN ASSOCIATES, LLC, GATEWAY, LLC
and COLUMBIA DEBT RECOVERY, LLC,
d/b/a GENESIS CREDIT MANAGEMENT,
LLC, and WILLIAM WOJDAK

Defendants.

NO. 2:19-cv-00620-JLR

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. "CONFIDENTIAL" MATERIAL

"Confidential" material shall include the following documents and tangible things produced or otherwise exchanged: (1) personally identifying information; (2) Plaintiffs' contact information, including Plaintiffs' telephone numbers, current addresses, and any of Plaintiffs' prior addresses other than the rental unit Plaintiffs leased at the Gateway Apartments; (3) private tenant and/or debtor information, including credit reports or status, and account status, payments, or balances; (4) Defendants' respective policies and procedures, and non-public business or financial records, which are proprietary and confidential, as contemplated by Fed. R. Civ. P. 26(c)(1)(G); (5) Defendants' respective records that identify non-parties and their personal information; and (6) software used by Defendants in their business activities.

3. SCOPE

The protections conferred by this agreement cover not only confidential material (as defined above), but also (1) any information copied or extracted from confidential material; (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal confidential material.

However, the protections conferred by this Stipulation and Order do not cover the following information: any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise. Any use of Protected Material at trial shall be governed by a separate agreement or order.

4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

4.1 Basic Principles. A receiving party may use confidential material that is disclosed or produced by another party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Confidential material may be

1 disclosed only to the categories of persons and under the conditions described in this
2 agreement. Confidential material must be stored and maintained by a receiving party at a
3 location and in a secure manner that ensures that access is limited to the persons authorized
4 under this agreement.

5 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
6 ordered by the court or permitted in writing by the designating party, a receiving party may
7 disclose any confidential material only to:

8 (a) the receiving party's counsel of record in this action, as well as
9 employees of counsel to whom it is reasonably necessary to disclose the information for this
10 litigation;

11 (b) the officers, directors, and employees (including in house counsel) of the
12 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
13 agree that a particular document or material produced is for Attorney's Eyes Only and is so
14 designated;

15 (c) experts and consultants to whom disclosure is reasonably necessary for
16 this litigation and who have signed the "Acknowledgment and Agreement to Be Bound"
17 (Exhibit A);

18 (d) the court, court personnel, and court reporters and their staff;

19 (e) copy or imaging services retained by counsel to assist in the duplication
20 of confidential material, provided that counsel for the party retaining the copy or imaging
21 service instructs the service not to disclose any confidential material to third parties and to
22 immediately return all originals and copies of any confidential material;

23 (f) during their depositions, witnesses in the action to whom disclosure is
24 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be
25 Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered by the court.

26 Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential
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1 material must be separately bound by the court reporter and may not be disclosed to anyone
2 except as permitted under this agreement;

3 (g) the author or recipient of a document containing the information or a
4 custodian or other person who otherwise possessed or knew the information.

5 4.3 Filing Confidential Material. Before filing confidential material or discussing or
6 referencing such material in court filings, the filing party shall confer with the designating
7 party, in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating
8 party will remove the confidential designation, whether the document can be redacted, or
9 whether a motion to seal or stipulation and proposed order is warranted. During the meet and
10 confer process, the designating party must identify the basis for sealing the specific confidential
11 information at issue, and the filing party shall include this basis in its motion to seal, along with
12 any objection to sealing the information at issue. Local Civil Rule 5(g) sets forth the
13 procedures that must be followed and the standards that will be applied when a party seeks
14 permission from the court to file material under seal. A party who seeks to maintain the
15 confidentiality of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B),
16 even if it is not the party filing the motion to seal. Failure to satisfy this requirement will result
17 in the motion to seal being denied, in accordance with the strong presumption of public access
18 to the Court's files.

19 5. DESIGNATING PROTECTED MATERIAL

20 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
21 party or non-party that designates information or items for protection under this agreement
22 must take care to limit any such designation to specific material that qualifies under the
23 appropriate standards. The designating party must designate for protection only those parts of
24 material, documents, items, or oral or written communications that qualify, so that other
25 portions of the material, documents, items, or communications for which protection is not
26 warranted are not swept unjustifiably within the ambit of this agreement.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
2 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
3 unnecessarily encumber or delay the case development process or to impose unnecessary
4 expenses and burdens on other parties) expose the designating party to sanctions.

5 If it comes to a designating party's attention that information or items that it designated
6 for protection do not qualify for protection, the designating party must promptly notify all other
7 parties that it is withdrawing the mistaken designation.

8 5.2 Manner and Timing of Designations. Except as otherwise provided in this
9 agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
10 ordered, disclosure or discovery material that qualifies for protection under this agreement must
11 be clearly so designated before or when the material is disclosed or produced.

12 (a) Information in documentary form: (*e.g.*, paper or electronic documents
13 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
14 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that
15 contains confidential material. If only a portion or portions of the material on a page qualifies
16 for protection, the producing party also must clearly identify the protected portion(s) (*e.g.*, by
17 making appropriate markings in the margins).

18 (b) Testimony given in deposition or in other pretrial proceedings: the
19 parties and any participating non-parties must identify on the record, during the deposition or
20 other pretrial proceeding, all protected testimony, without prejudice to their right to so
21 designate other testimony after reviewing the transcript. Any party or non-party may, within
22 fifteen days after receiving the transcript of the deposition or other pretrial proceeding,
23 designate portions of the transcript, or exhibits thereto, as confidential. If a party or non-party
24 desires to protect confidential information at trial, the issue should be addressed during the pre-
25 trial conference.
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1 (c) Other tangible items: the producing party must affix in a prominent place
 2 on the exterior of the container or containers in which the information or item is stored the
 3 word "CONFIDENTIAL." If only a portion or portions of the information or item warrant
 4 protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
 6 designate qualified information or items does not, standing alone, waive the designating party's
 7 right to secure protection under this agreement for such material. Upon timely correction of a
 8 designation, the receiving party must make reasonable efforts to ensure that the material is
 9 treated in accordance with the provisions of this agreement.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
 12 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
 13 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
 14 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
 15 challenge a confidentiality designation by electing not to mount a challenge promptly after the
 16 original designation is disclosed.

17 6.2 Meet and Confer. The party challenging the designation of information under
 18 this order (the "Challenging Party") shall initiate the dispute resolution process by providing
 19 written notice of each designation it is challenging and describing the basis for each challenge.
 20 To avoid ambiguity as to whether a challenge has been made, the written notice must recite that
 21 the challenge to confidentiality is being made in accordance with this specific paragraph of the
 22 Protective Order. The parties shall attempt to resolve each challenge in good faith and must
 23 begin the process by conferring directly within 14 days of the date of service of notice. In
 24 conferring, the party who designated the information as confidential (the "Designating Party")
 25 must have an opportunity to review the designated material, to reconsider the circumstances,
 26 and, if no change in designation is offered, to explain the basis for the chosen designation. A
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1 Challenging Party may proceed to the next stage of the challenge process only if it has engaged
 2 in this meet and confer process first or establishes that the Designating Party is unwilling to
 3 participate in the meet and confer process in a timely manner. A party's good-faith inability to
 4 confer within 14 days of the date of service of the notice shall not be deemed an unwillingness
 5 to participate in the meet and confer process in a timely manner.

6 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
 7 intervention, the Designating Party may file and serve a motion to retain confidentiality under
 8 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). Each such
 9 motion must be accompanied by a competent declaration affirming that the movant has complied
 10 with the meet and confer requirements imposed in the preceding paragraph. In addition, the
 11 Challenging Party may file a motion challenging a confidentiality designation at any time if there
 12 is good cause for doing so, including a challenge to the designation of a deposition transcript or
 13 any portions thereof. Any motion brought pursuant to this provision must be accompanied by a
 14 competent declaration affirming that the movant has complied with the meet and confer
 15 requirements imposed by the preceding paragraph.

16 The burden of persuasion in any such challenge proceeding shall be on the Designating
 17 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
 18 unnecessary expenses and burdens on other parties) may expose the Challenging Party to
 19 sanctions. All parties shall continue to afford the material in question the level of protection to
 20 which it is entitled under the Producing Party's designation until the court rules on the
 21 challenge.

22 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
 23 LITIGATION

24 If a party is served with a subpoena or a court order issued in other litigation that
 25 compels disclosure of any information or items designated in this action as
 26 "CONFIDENTIAL," that party must:
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1 (a) promptly notify the designating party in writing and include a copy of
2 the subpoena or court order;

3 (b) promptly notify in writing the party who caused the subpoena or order to
4 issue in the other litigation that some or all of the material covered by the subpoena or order is
5 subject to this agreement. Such notification shall include a copy of this agreement; and

6 (c) cooperate with respect to all reasonable procedures sought to be pursued
7 by the designating party whose confidential material may be affected.

8 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

9 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
10 confidential material to any person or in any circumstance not authorized under this agreement,
11 the receiving party must immediately (a) notify in writing the designating party of the
12 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
13 protected material, (c) inform the person or persons to whom unauthorized disclosures were
14 made of all the terms of this agreement, and (d) request that such person or persons execute the
15 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

16 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
17 MATERIAL

18 When a producing party gives notice to receiving parties that certain inadvertently
19 produced material is subject to a claim of privilege or other protection, the obligations of the
20 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
21 provision is not intended to modify whatever procedure may be established in an e-discovery
22 order or agreement that provides for production without prior privilege review. The parties
23 agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

24 10. NON TERMINATION AND RETURN OF DOCUMENTS

25 Within 60 days after the termination of this action, including all appeals, each receiving
26 party must return all confidential material to the producing party, including all copies, extracts
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1 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
2 destruction.

3 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
4 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
5 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
6 work product, even if such materials contain confidential material.

7 The confidentiality obligations imposed by this agreement shall remain in effect until a
8 designating party agrees otherwise in writing or a court orders otherwise.

9 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

10 RESPECTFULLY SUBMITTED AND DATED this 9th day of December, 2019.

11 TERRELL MARSHALL LAW GROUP

LEE SMART P.S., INC.

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9 PURSUANT TO STIPULATION, IT IS SO ORDERED

10 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
11 documents in this proceeding shall not, for the purposes of this proceeding or any other federal
12 or state proceeding, constitute a waiver by the producing party of any privilege applicable to
13 those documents, including the attorney-client privilege, attorney work-product protection, or
14 any other privilege or protection recognized by law.

15 DATED: 16 December 2019


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17 THE HONORABLE JAMES L. ROBART
18 United States District Court Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of

_____ [print or type full address], declare under penalty
of perjury that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Western District of Washington on [date]
in the case of *Jammeh v. HNN Associates*, et al., No. 2:19-cv-00620 JLR. I agree to comply
with and to be bound by all the terms of this Stipulated Protective Order and I understand and
acknowledge that failure to so comply could expose me to sanctions and punishment in the
nature of contempt. I solemnly promise that I will not disclose in any manner any information
or item that is subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Western District of Washington for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

CERTIFICATE OF SERVICE

I, Beth E. Terrell, hereby certify that on December 9, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Attorneys for Defendants HNN Associates, LLC, Gateway, LLC, Columbia Debt Recovery, LLC, d/b/a Genesis Credit Management, LLC and William Wojdak

DATED this 9th day of December, 2019.

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